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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/095,397	06/10/1998	WOLFGANG KUSCHKE	233	9603

7590 03/20/2003
STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
3663	

DATE MAILED: 03/20/2003

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 33

Application Number: 09/095,397

Filing Date: June 10, 1998

Appellant(s): KUSCHKE ET AL.

Michael J. Striker

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6-11-02.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect. The request for reconsideration submitted by the applicant on 3-27-02 was entered as indicated in the advisory action.

The amendment after final rejection filed on 3-27-02 has been entered.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-8 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

Claims 1&7 contain substantial errors as presented in the Appendix to the brief.

Accordingly, claims 1&7 are correctly written in the Appendix to the Examiner's Answer.

(9) *Prior Art of Record*

5876223	Kaneshige et al	3-1999
5827997	Chung et al	10-1998

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 102

(ii) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(iii) Claims 1, 2, 5, & 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaneshige et al (5876223).

Regarding claim 1, Kaneshige A. et al (fig. 12) discloses a screening housing for microwave circuits comprising:

a housing body having an interior, said housing body opened at least at one side thereof;
a cover 11 closing said interior of said housing body;

a substrate 12 mounted on an inner side of said cover 11;
means forming a plurality of chambers provided for accommodating of individual circuit units 17 so that said individual circuit units 17 are screened from one another;
said means including said substrate 12 on said inner side of said cover 11 and a plurality of webs 13 which are formed directly on said substrate 12 so that when said cover 11 closes said housing body said webs 13 form separating walls between said chambers.

Regarding claim 2, Kaneshige A. et al (fig. 12) discloses the screening housing, wherein said housing body is composed of an electromagnetic energy screening material (nickel, copper plating, cot. 4, lines 4-6).

Regarding claim 5, Kaneshige A. et al (fig. 12) discloses the screening housing, wherein said substrate 12 and webs 13 are formed of one piece with one another.

Regarding claim 6, Kaneshige A. et al (fig. 12, cot. 4, lines 4-6) discloses the screening housing, wherein said substrate 12 and webs 13 are composed of the same material.

Claim Rejections - 35 USC § 103

(iv). The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(v) Claims 3, 4, 7, & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneshige et al in view of Chung et al (5827997).

Regarding claim 3, Kaneshige A. et al (fig. 12) discloses the screening housing, but did not particularly mention that the substrate is composed of a polymer with embedded metal particles. However, Chung et al (col. 1, lines 39+) teaches of an electromagnetic shielding material composed of a polymer with embedded metal particles. Therefore, it would have been obvious to one of ordinary skill in the art of microwave screening, at the time the invention was made, to make the substrate of the Kaneshige et al device to comprise a polymer with embedded metal particles because a polymer with embedded metal particles is cheaper as taught by Chung, col. 1, lines 30+.

Regarding claim 4, Kaneshige A. et al (fig. 12) discloses the screening housing, but did not particularly mention that the substrate is composed of a silicone mass with embedded metal particles. However, Chung et al (col. 5, line 65) teaches of an electromagnetic shielding material, wherein a substrate (matrix) is composed of a silicone mass with embedded metal particles. Therefore, it would have been obvious to one of ordinary skill in the art of microwave screening, at the time the invention was made, to make the substrate of the Kaneshige et al device to comprise a silicone mass with embedded metal particles because it is cheaper as taught by Chung et al, col. 2, line 24.

Regarding claim 7, Kaneshige A. et al (fig. 12) discloses a screening housing for microwave circuits comprising:

a housing body having an interior, said housing body opened at least at one side thereof;
a cover 11 closing said interior of said housing body;
a substrate 12 applied on an inner side of said cover 11; and

means for forming a plurality of chambers provided for accommodating of individual circuit units 17 so that said individual circuit units 17 are screened from one another, said means including said substrate 12, applied on an inner side of said cover 11, and a plurality of webs 13 formed directly on said substrate 12 so that when said cover 11 closes said housing body said webs 13 form separating walls between said chambers.

Although Kaneshige A. et al (fig. 12) discloses said substrate 12, they did not particularly mention that the substrate is composed of a polymer with embedded metal particles. However, Chung et al (col. 5, lines 64+) teaches of an electromagnetic shielding material composed of a polymer (matrix) with embedded metal particles. Therefore, it would have been obvious to one of ordinary skill in the art of microwave screening, at the time the invention was made, to make the substrate of the Kaneshige et al device to comprise a polymer with embedded metal particles because it is cheaper as taught by Chung et al, col. 2, line 24.

Regarding claim 8, Kaneshige A. et al (fig. 12) in view of Chung et al disclose the screening housing as in claim 7, wherein said substrate 12 and webs 13 are made from the same material and formed of one piece with one another.

(11) Response to Argument

Applicant's arguments filed 6-11-02 have been fully considered but they are not persuasive. The examiner has carefully read applicants arguments, but the arguments are not persuasive.

The applicants have conceded on page 6, paragraph 3 in the brief that Kaneshige et al disclose the limitations of independent claim 1. Accordingly, Kaneshige et al anticipate the claim limitations.

Next, the applicants argue that the walls of the invention are formed directly on the substrate. And that on the other hand, the prior art Kaneshige does not disclose walls formed directly on the substrate. The argument is respectfully traversed. It could be easily seen in figs. 12&13 of Kaneshige that the walls 13 are formed directly on the substrate 12. As best understood by the examiner, the applicant's argument that in the Kaneshige patent, the shielding layer is applied to the walls 13 and the substrate 12 *after* the walls 13 and the substrate 12 have been formed together in one piece is not correct. Such a limitation is not taught in Kaneshige and has no bearing on the claim limitation. In Kaneshige there is no obstruction between the walls 13 and the substrate 12, therefore, Kaneshige (figs. 12&13) disclose walls 13 formed directly on the substrate 12.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there is some teaching, suggestion, and motivation in Chung et al (5827997) to modify the Kaneshige invention. That is Kaneshige et al (fig. 12) disclose a substrate 12, but they did not particularly mention that the substrate is composed of a polymer with embedded metal particles. However, Chung et al (col. 5, lines 64+) teaches of an electromagnetic shielding material composed of a polymer (matrix) with embedded metal particles. Therefore, it would have been obvious to one of ordinary skill in the art of microwave screening, at the time the

Art Unit: 3663

invention was made, to make the substrate of the Kaneshige et al device to comprise a polymer with embedded metal particles because it is **cheaper** as taught by Chung et al, col. 2, line 24.

The examiner had issued an objection to the applicants' specification, page 1, requesting that page 1 be written in proper idiomatic English. Particularly, there is a missing statement after "Germany" line 5. The objection still stands since the applicants have not amended or corrected the error of page 1. The applicant has amended page 2 of the application instead of page 1.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

William Cucklinski
SPE, Art Unit 3663

January 8, 2003

Conferees:

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Ronnie Mancho

Yonel Beaulieu

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

33

DATE MAILED:

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Commissioner of Patents and Trademarks

The appellant is notified by the following:

The IDS filed June 10, 1998 (paper No. 2) and November 19, 1998 (paper No. 4) have been considered. To that effect, copies of the IDS are submitted herewith;

The amendment to the specification filed March 27, 2002 (paper No. 27) has been entered;

The appeal brief submitted June 11, 2002 (paper No. 30) is defective. That is, the claims in the appendix of the appeal brief do not match the amended claims submitted December 30, 1999. Therefore, the appellant is notified to replace the existing defective appendix in the brief so that claims 1 and 7 are properly corrected to match the amended claims submitted December 30, 1999; and

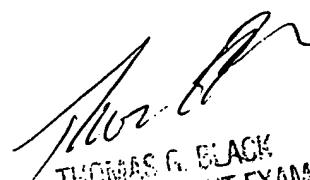
The Notice of Appeal fee and Extension of Time fee have been charged as requested to appellant's Deposit Account.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 703-305-6318. The examiner can normally be reached on Mon-Thurs; 9-5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Black can be reached on 703-305-9707. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Ronnie Mancho

January 7, 2003.


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600